IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36057

STATE OF IDAHO,	)	**2009 Unpublished Opinion No. 732**
	)	
Plaintiff-Respondent,	)	**Filed: December 17, 2009**
	)	
v.	)	**Stephen W. Kenyon, Clerk**
	)	
CHRISTOPHER SCOTT MILLWARD,	)	**THIS IS AN UNPUBLISHED**
	)	**OPINION AND SHALL NOT**
Defendant-Appellant.	)	**BE CITED AS AUTHORITY**
	)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bingham County. Hon. Darren B. Simpson, District Judge.

Judgment of conviction and unified life sentence, with a minimum period of confinement of eight years, for rape, affirmed.

Greg S. Silvey, Kuna, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge, GUTIERREZ, Judge
and GRATTON, Judge

PER CURIAM

Christopher Scott Millward was convicted of rape of a fourteen-year-old girl, Idaho Code §§ 18-6101(1), -6104. The district court imposed a unified life sentence, with a minimum period of confinement of eight years. Millward appeals, contending that the sentence is excessive.

Millward argues that his sentence constitutes cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution. To address this constitutional challenge, we must first make a threshold comparison of the crime committed and the sentence imposed to determine whether the sentence leads to an inference of gross disproportionality. *State v. Brown*, 121 Idaho 385, 394, 825 P.2d 482, 491 (1992). This "grossly disproportionate" test is equivalent to the standard under the Idaho Constitution enunciated in *State v. Evans*, 73 Idaho 50, 245 P.2d 788 (1952), which focuses upon whether the punishment is "out of proportion

to the gravity of the offense committed, and such as to shock the conscience of reasonable [people]." *Brown*, 121 Idaho at 394, 825 P.2d at 491. If an inference of such disproportionality is found, we must conduct a proportionality analysis comparing Millward's sentence to those imposed on other defendants for similar offenses. *Id.* *See also State v. Matteson*, 123 Idaho 622, 626, 851 P.2d 336, 340 (1993). For purposes of this analysis, we treat the fixed portion of the sentence, eight years, as the term of confinement. *Id.*

The offense to which Millward pleaded guilty is rape. This offense is sufficiently serious that we cannot say that the unified life sentence with eight years determinate is out of proportion to the gravity of the offense or such as to shock the conscience of reasonable people. Consequently, we do not proceed with a further proportionality review.

Millward also contends that his sentence constitutes an abuse of the district court's discretion under state law sentencing standards. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Therefore, Millward's judgment of conviction and sentence are affirmed.